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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,646	03/29/2004	Anan Chuntharapai	11669.144USC1	5699
23552	7590	11/15/2006	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			BRANNOCK, MICHAEL T	
			ART UNIT	PAPER NUMBER
			1649	

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/813,646

Applicant(s)

CHUNTHARAPAI ET AL.

Examiner

Michael Brannock

Art Unit

1649

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-10 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

*Election/Restrictions*

This application contains claims directed to a plurality of patentably distinct species of the claimed invention, i.e., (a) antibodies which block binding of a first type I interferon to IFNAR1 and do not block the binding of a second type I interferon to IFNAR1, wherein: the first type I interferon is selected from the group consisting of IFN- $\beta$ , IFN- $\alpha 2$ , IFN- $\alpha 8$ , IFN- $\omega$ , and IFN- $\alpha 5$ , and the second type is selected from the group consisting of IFN- $\beta$ , IFN- $\alpha 2$ , IFN- $\alpha 8$ , IFN- $\omega$ , and IFN- $\alpha 5$ ;

and (b) a monoclonal antibody that is:

- a) 4A7
- b) 2E1;

and (c) an anti-IFNAR1 monoclonal antibody is an antibody that binds to one or more amino acid positions:

- a) That does not bind to a peptide consisting of amino acids 1-200 of SEQ ID NO: 22.
- b) That does not bind to a peptide consisting of amino acids 204-398 of SEQ ID NO: 22.
- c) That binds to amino acids in the sequence of amino acids 244-249 of SEQ ID NO: 22.
- d) That binds to amino acids in the sequence of amino acids 291-298 of SEQ ID NO: 22.
- e) That binds to amino acids 249, 291, and 296 of SEQ ID NO: 22.

Applicant is required to chose for examination one species of (a) a pair of interferons: consisting of the first type and the second type and/or one particular antibody of (b) if consistent with the election in (a) and/or an antibody of (c) if consistent with either the election of (a) or (b). These species are distinct because they are drawn to antibodies that are chemically distinct at the amino acid level and presumably recognize different epitopes; and a search of one could not be relied upon, solely, to provide art that would anticipate or render obvious that of the other. If

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Applicant has any questions regarding this restriction requirement, then they are encourage to call the Examiner at the number below.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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*Conclusion*

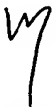
The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1649. Please note the new central fax number for official correspondence below:

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brannock, Ph.D., whose telephone number is (571) 272-0869. The examiner can normally be reached on Mondays through Fridays from 10:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres, Ph.D., can be reached at (571) 272-0867. Official papers filed by fax should be directed to **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

MB

  
November 9, 2006

  
JANET L. ANDRES  
SUPERVISORY PATENT EXAMINER